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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DON C. LIVINGSTON,  
  
                                Petitioner,  
  
                v.  
  
PATRICK COVELLO, Warden,  
  
                                Respondent.

No. 2:20-cv-0047 AC P

ORDER

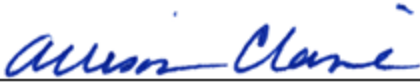
Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. By order filed January 24, 2020, this court granted petitioner’s request to proceed in forma pauperis and directed respondent to respond to the petition. ECF No. 5. Petitioner now requests appointment of counsel on the ground, inter alia, that he will be entitled to such appointment if the court convenes an evidentiary hearing concerning his mental health status. Petitioner also requests an evidentiary hearing. These requests will be denied as premature.

Petitioner is informed that there is no absolute right to appointment of counsel in habeas proceedings. See Nevius v. Sumner, 105 F.3d 453, 460 (9th Cir. 1996). Under 18 U.S.C. § 3006A, the court may appoint counsel in a habeas proceeding “if the interests of justice so require.” See Rule 8(c), Fed. R. Governing § 2254 Cases. In the present case, the court does not find that the interests of justice would be served by appointment of counsel at the present time.

1 Moreover, the court will determine whether an evidentiary hearing is warranted once this case has  
2 been fully briefed.

3 Accordingly, IT IS HEREBY ORDERED that petitioner's motions for appointment of  
4 counsel, and for an evidentiary hearing, ECF No. 8, are DENIED without prejudice.

5 DATED: February 18, 2020

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7 ALLISON CLAIRE  
8 UNITED STATES MAGISTRATE JUDGE  
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